

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



May 25, 1989

ALL COUNTY INFORMATION NOTICE NO. 1-33-89

TO: ALL COUNTY WELFARE DEPARTMENTS

SUBJECT: CHILD ABUSE INVESTIGATIONS IN LICENSED COMMUNITY CARE FACILITIES

REFERENCE: ALL COUNTY LETTERS 81-117, 82-60 and 82-94

The purpose of this information notice is to advise Counties of the requirements governing reports and investigations of alleged child abuse in licensed child day care and residential care facilities.

Assembly Bill (AB) 1632, Chapter 531, Statutes of 1987 pertaining to child care facilities, amended Penal Code (P.C.) Sections 11166.1, 11166.2, 11166.3, and 11167 of the Child Abuse And Neglect Reporting Law. These amendments became effective January 1, 1988.

Penal Code Section 11166.1 and 11166.2 require that when a CWD receives a report of alleged child abuse in a licensed community care facility (including foster family homes) or a licensed child day care facility, the CWD is required to notify the appropriate State or County office responsible for licensing the facility within a period of 24 hours. The CWD is also required to provide a copy of its investigation report and other pertinent findings to the licensing office with jurisdiction over the facility.

Penal Code Section 11166.3 (a) (formerly P.C. Section 11166.1) also requires CWDs, upon the request of the licensing agency, to submit copies of investigative reports, and any other pertinent materials, to the licensing agency.

Penal Code Section 11167 provides that a telephone report of alleged child abuse made to a CWD shall include certain information, including the name of the person making the report. Subdivision (c) of this section was amended and added to permit the CWD to give this information to the licensing agency when it is investigating alleged child abuse.

A copy of AB 1632 is enclosed for your review. If you have further questions regarding these amendments, please contact your Adult and Family Services Operations consultant at (916) 445-0623.

Sincerely

A handwritten signature in dark ink, appearing to read "Loren D. Suter", written in a cursive style.

LOREN D. SUTER  
Deputy Director  
Adult and Family Services

Enclosure

cc: County Welfare Directors Association

CHAPTER 531

An act to amend Sections 1522.1 and 1596.877 of the Health and Safety Code, and to amend Sections 11166.1, 11166.2, and 11167 of, and to amend and renumber Section 11166.1 of, the Penal Code, relating to child care facilities.

[Approved by Governor September 10, 1987. Filed with Secretary of State September 11, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1632, Leonard. Child care facilities.

Under the California Community Facilities Act and the California Child Day Care Facilities Act, prior to granting a license, the State Department of Social Services is required to check the Child Abuse Registry and to investigate any reports received.

This bill would require that the investigation include the review of the investigation report and file prepared by the child protective agency which investigated this child abuse report.

Under Penal Code provisions on child abuse reporting, the local law enforcement agency having jurisdiction over a child abuse report and a child protective agency is required, in the case of a licensed child care facility, to report the case to the department.

This bill would impose a state-mandated local program by requiring the law enforcement agency and the child protective agency to send the licensing agency, upon its request, a copy of the report of its investigation and other pertinent materials.

This bill would also authorize information relevant to the incident of child abuse to be given to the licensing agency when it is investigating a known or suspected case of child abuse, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be made from the State Mandates Claims Fund.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1522.1 of the Health and Safety Code is

amended to read:

1522.1. Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 2. Section 1596.877 of the Health and Safety Code is amended to read:

1596.877. Prior to granting a license to any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 3. Section 11166.1 of the Penal Code, as added by Section 2 of Chapter 1262 of the Statutes of 1985, is amended and renumbered to read:

11166.3. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(b) The local law enforcement agency having jurisdiction over a

case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

SEC. 4. Section 11166.1 of the Penal Code, as added by Section 3 of Chapter 1593 of the Statutes of 1985, is amended to read:

11166.1. When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility. The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

SEC. 5. Section 11166.2 of the Penal Code is amended to read:

11166.2. In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department, when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. A child protective agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

SEC. 6. Section 11167 of the Penal Code is amended to read:

11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), reimbursement shall be made from the State Mandates Claims Fund.